

### REMARKS

Applicants acknowledge with thanks the Examiner's indication that claims 1-12, 14, 20-23, 48 and 51 are allowed.

#### 35 U.S.C. §112, second paragraph

The Examiner rejected claims 25, 26, 31, 33, 34 and 62 under 35 U.S.C. §112, second paragraph under various grounds.

1) With respect to claim 25, the Examiner stated "[r]eferring to claim 25, due to the confusing language in the preamble the examiner cannot determine if applicant claim is directed to a program, processor, or method then applicant's limitations are for a steps or a method; consequently, the examiner cannot determine what statutory class the claim is directed. For purpose of examination the examiner will assume that the claim is directed to a computer program" (Office Action, page 2).

In response, to expedite prosecution of the present application, Applicants amended independent claim 25 to recite in the preamble "the computer code, when executed on the processor, causing the processor to perform operations comprising: ...," to thus clarify that claim 25 is directed to a computer program product that includes computer code that causes a processor to perform the operations recited in the body of the claim.

2) With respect to claim 26, the Examiner stated, "[r]eferring to claim 26, the claim is directed to a communication system comprising: a gateway an access network type determination processor and a decision making processor. Next the applicant claims that "the communication system is configured to control communications based on decision by the decision making processor and the decision including the traffic control policy sent from the policy control entity to the gateway". It is unclear what structure (ie gateway, determination processor or decision making processor which is part of the communication system) is configured to control communication based on decision by the decision making processor the

decision including the traffic flow control policy sent from the policy control entity to the gateway because applicant communication system" (Office Action, page 2).

In response, to expedite prosecution of the present application, Applicants amended independent claim 26 to recite that communications are controlled based on decisions by the decision making processor. Applicants note that embodiments of claim 26 may cover various structures/components/modules of the communication system that may be used to control communications based on decisions by the decision making processor.

3) With respect to claim 31, the Examiner stated "[r]eferring to claim 31, the claim is directed to an apparatus comprising: an access network type determining processor, transmitter, and enforcing processor. What is meant by "the apparatus further configured to receive from said policy control entity a message indicating a traffic flow control policy decided on the basis of information regarding the type of the access network"? What part of the apparatus is further configured to receive from said policy control entity a message indicating a traffic flow control policy decided on the basis of information regarding the type of the access network"?" (Office Action, page 2)

In response, to expedite prosecution of the present application, Applicant amended claim 31 to recite that it is a gateway that is configured to receive from the policy control entity a message indicating a traffic flow control policy decided on the basis of information regarding the type of the access network. Support for this amendment is provided throughout the present application, including, for example, in FIG. 3, and at pages 4-5, paragraphs 48-62 of the published application (US 2005/0135375).

4) With respect to claim 33, the Examiner stated "[r]eferring to claim 33, the claim appears to be directed to a communication system comprising: Different access networks, access network type determination processor, and a decision making processor. What is meant by different access network? Is applicant trying to refer to a first RAN and a second RAN where the first RAN is different from the second RAN? It is unclear what structure in the communication system is configured to control communication based on decision by the decision making processor the decision including the traffic flow control policy sent from the policy control entity

to the gateway. What is meant by "the decisions"? There is only antecedent basis for a decision" (Office Action, page 2).

Applicants first note that the pending claims do not include claim 33. Rather, claim 33 has previously been cancelled. The only claim to recite "different access networks" is claim 26. Assuming that the Examiner's comments pertain to claim 26, Applicants amended claim 26 to replace the language "different access networks" with the recitation "a plurality of access networks." Support for this recitation is provided, for example, at page 1, paragraph 8 of the published application. Applicants further note that, in some embodiments, the plurality of access networks may include different RAN's (see, for example, page 2, paragraph 29, for support). Regarding the Examiner comment that "it is unclear what structure in the communication system is configured to control communication based on decision by the decision making processor," as noted above, Applicants amended the claim language of claim 26 to recite that communication are controlled based on decisions by the decision making processor. Finally, with respect to the Examiner comment regarding "the decisions," the claim language of claim 26 recites "based on decisions," and thus does not result in any antecedent problem.

5) With respect to claim 34, the Examiner stated "[r]eferring to claim 34, the examiner cannot ascertain whether applicant is invoking 112/6<sup>th</sup> paragraph; therefore, that makes this claim indefinite because applicant is claiming "access network type means for determining" and "means to receive" If applicant is invoking 112/6<sup>th</sup> paragraph then applicant needs to indicate on the record that they are claiming 112/6<sup>th</sup> paragraph and amend the claim so that all of the claimed elements are in the form of means for in order to make the record clear" (Office Action, page 3). The Examiner made a similar comment with respect to claim 62.

In response, to expedite prosecution of the present application, Applicant amended claims 34 and 62 to more clearly recite "means-plus-function" language with respect to the means for determining.

### 35 U.S.C. §101

The Examiner rejected claim 25, alleging that the claim is directed to non-statutory subject matter.

To expedite prosecution of the present application, Applicants amended the preamble of claim 25 to recite "[a] computer program product comprising computer code stored on a non-transitory computer readable medium."

35 U.S.C. §112, first paragraph

The Examiner rejected claims 25, 54-62 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement.

Specifically, with respect to claim 25, the Examiner stated "[r]eferring to claim 25, applicant specification provides support for the policy control entity to send a message to the gateway indicating the policy per Para [0056]. The examiner respectfully disagrees with the applicant's argument that gateway sending a request message to the policy control entity is adequate support for "sending to the gateway from said policy control entity a message indicating said traffic flow control policy decision. Clearly sending a request for a decision is different from sending a decision. There is support for requesting a decision but applicant has not claimed requesting a decision. Applicant is claiming a message indicating flow control policy decision which is sent by the Gateway. Where is the support for the support in the specification for the gateway the message to the policy control entity indicating the traffic flow control policy decision. Applicant claim is just the opposite of what is supported by the specification; consequently, the examiner believes that the applicant has added new matter which is not supported by the specification" (Office Action, page 4). The Examiner made a similar comment in relation to claim 54.

Applicants respectfully disagree with the Examiner's contentions. Applicants contend that the specification of the present application in fact includes explicit support for the features that a policy control entity sends to a gateway a message indicating a traffic flow control policy decision.

Particularly, as previously explained in Applicants' March 18, 2010, Response, the specification explicitly describes that a policy control entity 52 uses information sent by a gateway to derive information for authorization and policy control decision making:

[0052] The policy control entity 52 may then use the information sent by the gateway 40 to derive information for authorization and policy control decision making.

(Published Application, page 4, paragraph 52)

The information sent by the gateway includes an indication of the network access, and accordingly, traffic flow control policy is decided on the basis of, at least in part, information regarding the type of the access network.

The specification also describes that the policy decision made by the policy control entity is sent to the gateway 40, where that policy decision is enforced:

[0062] The policy decision by the policy control entity 52 is sent to the gateway 40 in message 7. The gateway enforces the policy decision in the provisioning of the service. The gateway may send a 'Report State (Status)' message 8 to the policy control entity. This may be simply an indication if the policy has been enforced successfully.

(Emphasis added, Published Application, page 5, paragraph 62)

Thus, and as also depicted in FIG. 3, the specification in at least paragraph 62 explicitly and unequivocally describes a policy control entity (such as the policy control entity 52) sending to a gateway (such as gateway 40) a policy decision. Furthermore, as explained in paragraph 17, policy decisions correspond to traffic flow control:

[0017] Some features associated with a service flow may need to be controlled by the gateway. Gateway may need to apply control to a traffic flow when setting up a data bearer. Control may also need to be applied to a traffic flow on an already established data bearer. The control is based on so called policy. In brief, a policy can be seen as a set of rules how the traffic flow shall be controlled.

(Published Application, page 2, paragraph 17)

Accordingly, contrary to the Examiner's contentions, claims 25 and 54 do not contain subject matter that was not described in the specification.

With respect to claim 58-60 and 62, the Examiner inquired regarding support for "a transmitter," "receiver," and "means for sending" (Office Action, page 5). Applicants'

specification describes:

[0014] **A GPRS based communication system is an example of wireless communication systems that provide packet-switched data transmission for a mobile user equipment.** The GPRS operational environment comprises one or more service areas, which are interconnected by a GPRS backbone network. A service area may comprise a number of packet data service nodes (SN) . In this specification the service nodes will be referred to as serving GPRS support nodes (SGSN). Each of the SGSNs is connected to at least one radio access network. The access networks may be either 2G or 3G access networks.

[0015] The packet data serving nodes are in turn connected to an external data network, e.g. to a public switched data network (PSPDN), via appropriate gateways, such as GPRS gateway support nodes (GGSN). **The GPRS thus allow transmission of packet data between mobile user equipment and external data networks.**

...

[0033] The basic operational principles of a mobile user equipment, that may also be referenced to as a mobile station, are generally known by those skilled person. **A mobile user equipment is normally configured for wireless communication with other stations, typically with the base stations of a mobile communication system for enabling mobility thereof. A mobile user equipment may include an antenna element for wirelessly receiving and/or transmitting signals from and/or to the base stations of the mobile communication network.** A mobile user equipment may also be provided with a display for displaying images and/or other graphical information for the user of the mobile user equipment. Speaker means are also typically provided. The operation of the mobile user equipment may be controlled by means of an appropriate user interface, such as control buttons, voice commands and so on. Furthermore, a mobile station is typically provided with a processor entity and/or a memory means. Communication between the mobile user equipment and the entities of the communication network may be based on any appropriate communication protocol. A user may use the mobile user equipment for tasks such as, but not limited to, for making and receiving phone calls, for receiving and sending data from and to the network and for experiencing, for example, multimedia content by means on PDP contexts. For example, a user may access the network by means of a Personal Computer (PC), Personal Data Assistant (PDA), mobile station (MS) and so on.

(Emphasis added, Published Application, paragraphs 14-15 and 33)

Thus, inasmuch that wireless devices include antennas to enable transmission and receipt of data, and inasmuch that the communications systems described in the present application "provide packet-switched data transmission for a mobile user equipment," such systems/apparatus/devices clearly must have transmitters, receivers, means for transmitting and/or means for receiving.

### Specification Objections

The Examiner stated:

Referring to claim 34, Claim element "means for determining, means for sending, means for enforcing" are a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. The written description only implicitly or inherently sets forth the corresponding structure, material, or acts that perform the claimed function.

Pursuant to 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181, applicant is required to:

- (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it expressly recites the corresponding structure, material, or acts that perform the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

State on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function.

(Office Action, page 5)

The Examiner made similar comments in relation to claim 62.

Applicants again note that the specification contains ample description of the structure used to perform the various operations recited in the claims. For example, FIG. 3 and pages 4-5 and paragraphs 50, 52 and 64 describe the operations performed by the various devices of the communications system, including the gateway and the policy control entity.

Additionally, Applicants refer the Examiner to, for example, FIG. 1 and to paragraphs 29-34 and paragraphs 74-49 of the specification for a very detailed description of the structure and implementations used to perform the functions recited in claims 34 and 62.



### CONCLUSION

In view of the foregoing amendments, Applicants submit that the pending claims are in condition for allowance.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 39700-613001US/ NC40049US.

Respectfully submitted,  
/Ido Rabinovitch/

Date: December 17, 2010

\_\_\_\_\_  
Ido Rabinovitch  
Reg. No. L0080

Address all written correspondence to  
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
One Financial Center  
Boston, Massachusetts 02111  
**Customer No. 64046**  
Telephone: 617-348-1806  
Facsimile: 617-542-2241